

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ADLIFE MARKETING & COMMUNICATIONS
COMPANY, INC.

Plaintiff,

- against -

BUCKINGHAM BROTHERS, LLC

Defendant.

Docket No. 5:19-cv-796 (LEK/ATB)

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Adlife Marketing & Communications Company, Inc. (“Adlife” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant Buckingham Brothers, LLC (“Buckingham Brothers” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of twelve copyrighted photographs of food, owned and registered by Adlife, an advertising agency specializing in design, digital marketing, print advertising and photography. Accordingly, Adlife seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York and is registered with the New York Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b).

PARTIES

5. Adlife is an advertising agency specializing in design digital marketing, print advertising and photography having a usual place of business at 38 Church Street, Pawtucket, Rhode Island 02860.

6. Upon information and belief, Buckingham Brothers is a domestic limited liability company organized and existing under the laws of the State of New York, with a place of business at 45 Redfield Street, Constantia, New York 13044. Upon information and belief, Buckingham Brothers is registered with the New York State Department of Corporations to do business in New York.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Adlife is copyright holder of a photograph of Pork (the "Photograph"). See Exhibit A.

8. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-022-966. See Exhibit A.

B. Defendant's Infringing Activities

9. Buckingham Brothers ran the Photograph on their weekly advertisements for their food products. See Exhibit B.

10. Buckingham Brothers did not license the Photograph from Plaintiff, nor did Buckingham Brothers have Plaintiff's permission or consent to publish the Photograph on its advertisements.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

11. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-10 above.

12. Buckingham Brothers infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Advertisements. Buckingham Brothers is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

13. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

14. Upon information and belief, the foregoing acts of infringement by Buckingham Brothers have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

15. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

16. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

17. Plaintiff further is entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Buckingham Brothers be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded its costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
July 3, 2019

LIEBOWITZ LAW FIRM, PLLC
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*Attorneys for Plaintiff Adlife Marketing &
Communications Company, Inc.*

EXHIBIT A



EXHIBIT B

INFRINGEMENT DATA SHEET

BUCKINGHAM MARKET

MAILING ADDRESS:

Buckingham Market
45 Redfield Street
Constantia, NY 13044

PHONE NUMBER:

315 623 9472

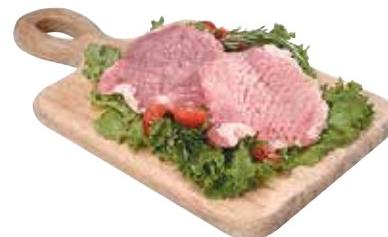


IMAGE:

PorkCubeSteakRawHR0308

COPYRIGHT REGISTRATION NUMBER:

VA0002022966

<div style="background-color: #008000; color: white; padding: 5px; text-align: center;"> Boneless Beef Round Cube Steak <small>USDA CHOICE</small> \$3.99 <small>lb</small> </div>	<div style="background-color: #008000; color: white; padding: 5px; text-align: center;"> Boneless Beef Sirloin Tip Sandwich Steak <small>USDA CHOICE</small> \$5.99 <small>lb</small> </div>	<div style="background-color: #008000; color: white; padding: 5px; text-align: center;"> SELECT Ground Fresh 95% Lean Ground Beef <small>BONUS PACK</small> \$4.29 <small>lb</small> </div>	<div style="background-color: #008000; color: white; padding: 5px; text-align: center;"> SELECT Ground Fresh 80% Lean Ground Beef <small>BONUS PACK</small> \$3.29 <small>lb</small> </div>
623-9472 VARIETY PACK #1 - \$50 2 Lb. Drumsticks or Thighs • 2 Lb. Ground Chuck 2 Lb. Fresh Italian Rope Sausage (Sweet, Medium, Hot) 2 Lb. Chuck Steaks or Roasts • 2 Lb. Pork Steaks 2 Lb. Hofmann German Franks or Snappys <small>12 Lb. Avg.</small>			
VARIETY PACK #2 - \$95 3 Lb. Chuck Roast or Steaks 3 Lb. Lean Tender Steak Beef 3 Lb. Bone-In Center Pork Chops 5 Lb. Ground Chuck • 3 Lb. Pork Shoulder Steaks 3 Lb. Boneless Chicken Breast <small>20 Lb. Avg.</small>			
VARIETY PACK #3 - \$135 3 Lb. Hofmann German Franks or Snappys • 5 Lb. Fresh Ground Chuck 3 Lb. Boneless Center Pork Chops • 3 Lb. Boneless Pork Shoulder Roast 3 Lb. Pork Shoulder Steaks • 5 Lb. Boneless Chuck Roast or Steaks 3 Lb. Fresh Italian Rope Sausage (Sweet, Medium, Hot) 4 Lb. Drumsticks or Thighs • 3 Lb. Shurline Bacon <small>33 Lb. Avg.</small>			
VARIETY PACK #7 - \$179 5 Lb. Boneless Chuck Roast or Steak 5 Lb. New York Strip Steaks • 5 Lb. Fresh Ground Chuck 3 Lb. Hofmann German Franks or Snappys 4 Lb. Bone-In Pork Chops • 4 Lb. Country Style Pork Spare Ribs 3 Lb. Fresh Italian Rope Sausage (Sweet, Medium, Hot) 2-Whole Fryers (7 Lb. Avg.) • 3 Lb. Boneless Chicken Breast 4 Lb. Drumsticks or Thighs <small>30 Lb. Avg.</small>			
BEVERAGES Sierra Nevada 6 Pack \$7.99 Starbucks Frappuccino 13.7 Oz. 2/\$5 Genesee 15 Pack \$5.99 Adirondack Craft Beer Mix Packs Great Lake Variety Pack 12 Pack \$15.99 Pepsi All Varieties 12 Pack, All Varieties 2/\$10 Canada Dry Seltzer 12 Pack, All Varieties 2/\$5 Coors Light Miller Light 			
HOUSEHOLD ITEMS Puffs Basic Family Pack 30s \$5.49 Bounty Essentials 6 Roll \$5.99 Dairy Shurfine Cheese Bricks Cody/Jack Sharp Cheddar Pepper Jack & More 2/\$4 Dannon Yogurt Original or Light/Fit All Flavors 33.8 Oz. 2/\$2 Swiss Miss Pudding Tapioca, Vanilla, Milk Chocolate or Chocolate/Vanilla Mint \$2.99 Heluva Good Dips White Cheddar, French Onion Bacon Horseradish & More \$4.99 International Delight or Dunkin Donut Creamer All Flavors 32 Oz. \$4.99 Silk Almond or Soy Milk All Varieties 64 Oz. \$4.99			
BREAD Thomas' Bagels 6 Pack \$2.99 Freihofer Country Bread 21 Oz. \$2.99 FROZEN ITEMS Grown Idaho Potatoes 28 Oz. \$2.99 Assorted Fries or Hashbrowns \$2.99 Galbani 16 Oz. Mozzarella 32 Oz. Ricotta Cheese <small>Wholesome Milk or Part Skim</small> \$4.69 \$4.69 Silk Almond or Soy Milk All Varieties 64 Oz. \$4.99			

INFRINGEMENT DATA SHEET

BUCKINGHAM MARKET

MAILING ADDRESS:

Buckingham Market
45 Redfield Street
Constantia, NY 13044

PHONE NUMBER:

315 623 9472



IMAGE:

PorkCubeSteakRawHR0308

COPYRIGHT REGISTRATION NUMBER:
VA0002022966

<p>Semi-Boneless Delmonico Steak or Roast \$7.99 lb</p>	<p>Boneless Beef New York Strip Steak \$4.99 lb</p>	<p>Ground Fresh 90% Lean Ground Beef \$4.29 lb</p>	<p>Ground Fresh 80% Lean Ground Beef \$3.29 lb</p>
<p>LEAN FRESH PORK</p> <p>Lean, Fresh, Boneless Country Style Pork Ribs \$1.99 lb</p>		<p>Lean, Fresh, Bone-In Center Cut Porkloin Chops 2 Per Pack \$2.29 lb</p>	
<p>Lean, Fresh, Pork Sirloin Cube Steak \$1.99 lb</p>		<p>Lean, Fresh, Buckingham Italian Style Bulk Sausage All Flavors \$2.69 lb</p>	
<p>Lean, Fresh, Boneless Pork Shoulder Roast \$2.29 lb</p>		<p>VARIETY PACK #1 - \$50 2 Lb. Drumsticks or Thighs • 2 Lb. Ground Chuck 2 Lb. Fresh Italian Rope Sausage (Sweet, Medium, Hot) 2 Lb. Chuck Steaks or Roasts • 2 Lb. Pork Steaks 2 Lb. Hofmann German Franks or Snappys 12 Lb. Avg.</p>	
<p>BEVERAGES</p> <p>Michelob Ultra 20 Pack, Bottles \$15.99</p>		<p>HOUSEHOLD ITEMS</p> <p>Puffs Plus Family 124 Ct. \$2.88</p>	
<p>Saranac Craft Soda 6 Pack 2/\$9</p>		<p>Febreeze Air Freshener Hawaiian w/Tide, Gain Island Breeze or Linen & Sky 8.8 Oz. \$2.88</p>	
<p>Keystone Light 36 Pack \$15.99</p>		<p>ERA 2X Laundry Detergent High Efficiency or w/Ox Bleach 100 Oz. \$5.99</p>	
<p>20 Oz. Vitamin Water 32 Oz. Powerade 4/\$5</p>		<p>PET ITEMS</p> <p>Meridian Dog Food GRAIN FREE Daybreak Twilight Riverbend Westward 5 Lb. \$7.99</p>	
<p>Killian's Red </p>		<p>Fresh Step Scoopable Cat Litter 20 Lb. \$10.99</p>	
<p>Sierra Nevada Lake Placid UBU Ale, Big Slide IPA UBU Golden Ale </p>		<p>Rachael Ray Cat Food Chicken, Fish/Chicken, Tuna or Salmon 2.8 Oz. 5/\$5</p>	
<p>DAIRY</p> <p>Coffeemate Natural Bliss Creamers 16 Oz. Hazelnut Toasted Coconut Vanilla & More \$0.88</p>		<p>Pillsbury Crescent Roll, Pizza Crust Bread Sticks or Cinnamon Rolls 8-13.8 Oz. \$1.88</p>	
<p>Shurfine Cottage Cheese Large/Small Curd or Low Fat \$0.99</p>		<p>Heluva Good French Onion Dip 24 Oz. \$0.99</p>	
<p>Biazzo Ricotta Cheese Whole or Part Skim \$0.99</p>			